

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES (CDSS)

ITEM # 1 Fry v. Saenz Court Case Eligibility for CalWORKs

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held July 13, 2005, as follows:

July 13, 2005
Office Building # 9
744 P St. Auditorium
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on July 13, 2005.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are attached/available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

CONTACT: Office of Regulations Development
California Department of Social Services
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CHAPTERS

Manual of Policies and Procedures Division 42 (Nonlinking Factors of Public Assistance Eligibility), Chapter 42-100 (Age), Section 42-101 (Age Requirement)

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulations comply with the Judgment and Peremptory Writ of Mandate issued on July 7, 2004, in the Fry v. Saenz lawsuit. The California Department of Social Services (CDSS) issued All County Letters (ACL 04-33 and ACL 04-50) to provide County Welfare Departments with instructions for identifying otherwise eligible 18-year-olds for whom aid is to be provided under the provisions of the Fry v. Saenz writ.

Welfare and Institutions Code Section 11253 and the Manual of Policies and Procedures (MPP) Division 42, Chapter 42-101, Section 42-101.2 prohibit the granting of CalWORKs cash aid to a child who has reached 18, unless the child can reasonably be expected to graduate before age 19. The lawsuit claimed that this provision violates the American with Disabilities Act because it discriminates against recipients who would not graduate before age 19 due to a disability. The CDSS is proposing the adoption of these regulations to comply with the court order.

In proposed language, the regulations specify that, otherwise eligible 18-year-olds who attend school full-time and are considered to have a disability under the criteria specified shall continue to be eligible for CalWORKs benefits until they graduate, turn 19, or stop attending school full-time, whichever occurs first.

COST ESTIMATE

1. Costs or Savings to State Agencies: \$1.5 million. The amount listed in this section is included in the 2004 Budget Act and is assumed to be funded from available TANF.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: \$0.4 million. The amount listed in this section is included in the 2004 Budget Act.
4. Federal Funding to State Agencies: \$13.7 million. The amount listed in this section is included in the 2004 Budget Act and is assumed to be funded from available TANF.

LOCAL MANDATE STATEMENT

These regulations do not impose a mandate upon local agencies or school districts. There are “state-mandated local costs” in these regulations which do not require state reimbursement under Section 17500 et seq., of the Government Code because any costs associated with the implementation of these regulations are costs mandated by Fry v. Saenz, (Sacramento County Superior Court), Case Number 00CS01350, Judgment and Peremptory Writ of Mandate, July 7, 2004.

STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that the proposed regulations does not affect small businesses. These regulations affect the CalWORKs program which is administered by CDSS. California receives federal monies for this program through the Temporary Aid for Needy Families block grant from the federal government. A portion of the block grant is disbursed to counties to aid teens who are 18 years old and in school full-time and expected to graduate by the age of 19. Small businesses do not receive any monetary disbursements and do not incur a fee or cost in association with this program. This regulation does not result in any inequalities for small businesses.

ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 10553 and 10554, Welfare and Institutions Code. Subject regulations implement and make specific Fry v. Saenz, (Sacramento County Superior Court), Case No. 00CS01350, Judgment and peremptory Writ of Mandate, July 7, 2004.

CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

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Backup:	Alison Garcia	(916) 657-2586

EMERGENCY STATEMENT

These regulations are to be adopted on an emergency basis. In order to allow interested persons an opportunity to submit statements or arguments concerning these regulations, they will be considered at public hearing in accordance with Government Code Section 11346.4.

AGENDA ITEM(S) FOR THIS PUBLIC HEARING - July 13, 2005

ITEM #1 ORD #0305-05 Fry v. Saenz Court Case Eligibility for CalWORKs